

## Amendment to H.R. 1375, As Reported

### Offered by Mrs. Kelly of New York

Page 108, after line 14, insert the following new title (and redesignate the subsequent title and sections and conform the table of contents accordingly):

## 1 TITLE VII—BUSINESS CHECKING 2 FREEDOM

### 3 SEC. 701. SHORT TITLE.

4 This title may be cited as the “Business Checking  
5 Freedom Act of 2004”.

### 6 SEC. 702. INTEREST-BEARING TRANSACTION ACCOUNTS 7 AUTHORIZED FOR ALL BUSINESSES.

8 (a) Section 2 of Public Law 93–100 (12 U.S.C. 1832)  
9 is amended—

10 (1) by redesignating subsections (b) and (c) as  
11 subsections (c) and (d), respectively; and

12 (2) by inserting after subsection (a) the fol-  
13 lowing:

14 “(b) Notwithstanding any other provision of law, any  
15 depository institution may permit the owner of any deposit  
16 or account which is a deposit or account on which interest



1 or dividends are paid and is not a deposit or account de-  
2 scribed in subsection (a)(2) to make up to 24 transfers  
3 per month (or such greater number as the Board of Gov-  
4 ernors of the Federal Reserve System may determine by  
5 rule or order), for any purpose, to another account of the  
6 owner in the same institution. An account offered pursu-  
7 ant to this subsection shall be considered a transaction  
8 account for purposes of section 19 of the Federal Reserve  
9 Act unless the Board of Governors of the Federal Reserve  
10 System determines otherwise.”.

11 (b) Effective at the end of the 2-year period begin-  
12 ning on the date of the enactment of this Act, section 2  
13 of Public Law 93-100 (12 U.S.C. 1832) is amended—

14 (1) in subsection (a)(1), by striking “but sub-  
15 ject to paragraph (2)”;

16 (2) by striking paragraph (2) of subsection (a)  
17 and inserting the following new paragraph:

18 “(2) No provision of this section may be con-  
19 strued as conferring the authority to offer demand  
20 deposit accounts to any institution that is prohibited  
21 by law from offering demand deposit accounts.”; and

22 (3) in subsection (b) (as added by subsection  
23 (a) of this section) by striking “and is not a deposit  
24 or account described in subsection (a)(2)”.



1 SEC. 703. INTEREST-BEARING TRANSACTION ACCOUNTS

2 AUTHORIZED.

3 (a) REPEAL OF PROHIBITION ON PAYMENT OF IN-  
4 TEREST ON DEMAND DEPOSITS.—

5 (1) FEDERAL RESERVE ACT.—Section 19(i) of  
6 the Federal Reserve Act (12 U.S.C. 371a) is amend-  
7 ed to read as follows:

8 “(i) [Repealed]”.

9 (2) HOME OWNERS’ LOAN ACT.—The first sen-  
10 tence of section 5(b)(1)(B) of the Home Owners’  
11 Loan Act (12 U.S.C. 1464(b)(1)(B)) is amended by  
12 striking “savings association may not—” and all  
13 that follows through “(ii) permit any” and inserting  
14 “savings association may not permit any”.

15 (3) FEDERAL DEPOSIT INSURANCE ACT.—Sec-  
16 tion 18(g) of the Federal Deposit Insurance Act (12  
17 U.S.C. 1828(g)) is amended to read as follows:

18 “(g) [Repealed]”.

19 (b) EFFECTIVE DATE.—The amendments made by  
20 subsection (a) shall take effect at the end of the 2-year  
21 period beginning on the date of the enactment of this Act.

22 SEC. 704. PAYMENT OF INTEREST ON RESERVES AT FED-  
23 ERAL RESERVE BANKS.

24 (a) IN GENERAL.—Section 19(b) of the Federal Re-  
25 serve Act (12 U.S.C. 461(b)) is amended by adding at  
26 the end the following new paragraph:



1           “(12) EARNINGS ON RESERVES.—

2           “(A) IN GENERAL.—Balances maintained  
3           at a Federal reserve bank by or on behalf of a  
4           depository institution may receive earnings to  
5           be paid by the Federal reserve bank at least  
6           once each calendar quarter at a rate or rates  
7           not to exceed the general level of short-term in-  
8           terest rates.

9           “(B) REGULATIONS RELATING TO PAY-  
10          MENTS AND DISTRIBUTION.—The Board may  
11          prescribe regulations concerning—

12               “(i) the payment of earnings in ac-  
13               cordance with this paragraph;

14               “(ii) the distribution of such earnings  
15               to the depository institutions which main-  
16               tain balances at such banks or on whose  
17               behalf such balances are maintained; and

18               “(iii) the responsibilities of depository  
19               institutions, Federal home loan banks, and  
20               the National Credit Union Administration  
21               Central Liquidity Facility with respect to  
22               the crediting and distribution of earnings  
23               attributable to balances maintained, in ac-  
24               cordance with subsection (c)(1)(A), in a



1 Federal reserve bank by any such entity on  
2 behalf of depository institutions.

3 “(C) DEPOSITORY INSTITUTIONS DE-  
4 FINED.—For purposes of this paragraph, the  
5 term ‘depository institution’, in addition to the  
6 institutions described in paragraph (1)(A), in-  
7 cludes any trust company, corporation orga-  
8 nized under section 25A or having an agree-  
9 ment with the Board under section 25, or any  
10 branch or agency of a foreign bank (as defined  
11 in section 1(b) of the International Banking Act  
12 of 1978).”.

13 (b) AUTHORIZATION FOR PASS THROUGH RESERVES  
14 FOR MEMBER BANKS.—Section 19(c)(1)(B) of the Fed-  
15 eral Reserve Act (12 U.S.C. 461(c)(1)(B)) is amended by  
16 striking “which is not a member bank”.

17 (c) CONSUMER BANKING COSTS ASSESSMENT.—

18 (1) IN GENERAL.—The Federal Reserve Act  
19 (12 U.S.C. 221 et seq.) is amended—

20 (A) by redesignating sections 30 and 31 as  
21 sections 31 and 32, respectively; and

22 (B) by inserting after section 29 the fol-  
23 lowing new section:



1 "SEC. 30. SURVEY OF BANK FEES AND SERVICES.

2 "(a) ANNUAL SURVEY REQUIRED.—The Board of  
3 Governors of the Federal Reserve System shall obtain an-  
4 nually a sample, which is representative by type and size  
5 of the institution (including small institutions) and geo-  
6 graphic location, of the following retail banking services  
7 and products provided by insured depository institutions  
8 and insured credit unions (along with related fees and  
9 minimum balances):

10 "(1) Checking and other transaction accounts.

11 "(2) Negotiable order of withdrawal and sav-  
12 ings accounts.

13 "(3) Automated teller machine transactions.

14 "(4) Other electronic transactions.

15 "(b) MINIMUM SURVEY REQUIREMENT.—The annual  
16 survey described in subsection (a) shall meet the following  
17 minimum requirements:

18 "(1) CHECKING AND OTHER TRANSACTION AC-  
19 COUNTS.—Data on checking and transaction ac-  
20 counts shall include, at a minimum, the following:

21 "(A) Monthly and annual fees and min-  
22 imum balances to avoid such fees.

23 "(B) Minimum opening balances.

24 "(C) Check processing fees.

25 "(D) Check printing fees.

26 "(E) Balance inquiry fees.

1           “(F) Fees imposed for using a teller or  
2           other institution employee.

3           “(G) Stop payment order fees.

4           “(H) Nonsufficient fund fees.

5           “(I) Overdraft fees.

6           “(J) Deposit items returned fees.

7           “(K) Availability of no-cost or low-cost ac-  
8           counts for consumers who maintain low bal-  
9           ances.

10          “(2) NEGOTIABLE ORDER OF WITHDRAWAL AC-  
11          COUNTS AND SAVINGS ACCOUNTS.—Data on nego-  
12          tiable order of withdrawal accounts and savings ac-  
13          counts shall include, at a minimum, the following:

14               “(A) Monthly and annual fees and min-  
15               imum balances to avoid such fees.

16               “(B) Minimum opening balances.

17               “(C) Rate at which interest is paid to con-  
18               sumers.

19               “(D) Check processing fees for negotiable  
20               order of withdrawal accounts.

21               “(E) Fees imposed for using a teller or  
22               other institution employee.

23               “(F) Availability of no-cost or low-cost ac-  
24               counts for consumers who maintain low bal-  
25               ances.



1           “(3) AUTOMATED TELLER TRANSACTIONS.—

2       Data on automated teller machine transactions shall  
3       include, at a minimum, the following:

4           “(A) Monthly and annual fees.

5           “(B) Card fees.

6           “(C) Fees charged to customers for with-  
7       drawals, deposits, and balance inquiries through  
8       institution-owned machines.

9           “(D) Fees charged to customers for with-  
10      drawals, deposits, and balance inquiries through  
11      machines owned by others.

12          “(E) Fees charged to noncustomers for  
13      withdrawals, deposits, and balance inquiries  
14      through institution-owned machines.

15          “(F) Point-of-sale transaction fees.

16          “(4) OTHER ELECTRONIC TRANSACTIONS.—

17      Data on other electronic transactions shall include,  
18      at a minimum, the following:

19          “(A) Wire transfer fees.

20          “(B) Fees related to payments made over  
21      the Internet or through other electronic means.

22          “(5) OTHER FEES AND CHARGES.—Data on  
23      any other fees and charges that the Board of Gov-  
24      ernors of the Federal Reserve System determines to  
25      be appropriate to meet the purposes of this section.





1           “(6) FEDERAL RESERVE BOARD AUTHORITY.—

2           The Board of Governors of the Federal Reserve Sys-  
3           tem may cease the collection of information with re-  
4           gard to any particular fee or charge specified in this  
5           subsection if the Board makes a determination that,  
6           on the basis of changing practices in the financial  
7           services industry, the collection of such information  
8           is no longer necessary to accomplish the purposes of  
9           this section.

10          “(c) ANNUAL REPORT TO CONGRESS REQUIRED.—

11           “(1) PREPARATION.—The Board of Governors  
12           of the Federal Reserve System shall prepare a report  
13           of the results of each survey conducted pursuant to  
14           subsections (a) and (b) of this section and section  
15           136(b)(1) of the Consumer Credit Protection Act.

16           “(2) CONTENTS OF THE REPORT.—In addition  
17           to the data required to be collected pursuant to sub-  
18           sections (a) and (b), each report prepared pursuant  
19           to paragraph (1) shall include a description of any  
20           discernible trend, in the Nation as a whole, in a rep-  
21           resentative sample of the 50 States (selected with  
22           due regard for regional differences), and in each  
23           consolidated metropolitan statistical area (as defined  
24           by the Director of the Office of Management and  
25           Budget), in the cost and availability of the retail



1 banking services, including those described in sub-  
2 sections (a) and (b) (including related fees and min-  
3 imum balances), that delineates differences between  
4 institutions on the basis of the type of institution  
5 and the size of the institution, between large and  
6 small institutions of the same type, and any engage-  
7 ment of the institution in multistate activity.

8 “(3) SUBMISSION TO CONGRESS.—The Board  
9 of Governors of the Federal Reserve System shall  
10 submit an annual report to the Congress not later  
11 than June 1, 2005, and not later than June 1 of  
12 each subsequent year.

13 “(d) DEFINITIONS.—For purposes of this section, the  
14 term ‘insured depository institution’ has the meaning  
15 given such term in section 3 of the Federal Deposit Insur-  
16 ance Act, and the term ‘insured credit union’ has the  
17 meaning given such term in section 101 of the Federal  
18 Credit Union Act.”.

19 (2) CONFORMING AMENDMENT.—

20 (A) IN GENERAL.—Paragraph (1) of sec-  
21 tion 136(b) of the Truth in Lending Act (15  
22 U.S.C. 1646(b)(1)) is amended to read as fol-  
23 lows:

24 “(1) COLLECTION REQUIRED.—The Board shall  
25 collect, on a semiannual basis, from a broad sample



1 of financial institutions which offer credit card serv-  
2 ices, credit card price and availability information  
3 including—

4 “(A) the information required to be dis-  
5 closed under section 127(c) of this chapter;

6 “(B) the average total amount of finance  
7 charges paid by consumers; and

8 “(C) the following credit card rates and  
9 fees:

10 “(i) Application fees.

11 “(ii) Annual percentage rates for cash  
12 advances and balance transfers.

13 “(iii) Maximum annual percentage  
14 rate that may be charged when an account  
15 is in default.

16 “(iv) Fees for the use of convenience  
17 checks.

18 “(v) Fees for balance transfers.

19 “(vi) Fees for foreign currency con-  
20 versions.”.

21 (B) EFFECTIVE DATE.—The amendment  
22 made by subparagraph (A) shall take effect on  
23 January 1, 2004.

24 (3) REPEAL OF OTHER REPORT PROVISIONS.—  
25 Section 1002 of Financial Institutions Reform, Re-



1       covery, and Enforcement Act of 1989 and section  
2       108 of the Riegle-Neal Interstate Banking and  
3       Branching Efficiency Act of 1994 are hereby re-  
4       pealed.

5       (d) TECHNICAL AND CONFORMING AMENDMENTS.—  
6       Section 19 of the Federal Reserve Act (12 U.S.C. 461)  
7       is amended—

8               (1) in subsection (b)(4) (12 U.S.C. 461(b)(4)),  
9       by striking subparagraph (C) and redesignating sub-  
10      paragraphs (D) and (E) as subparagraphs (C) and  
11      (D), respectively; and

12              (2) in subsection (c)(1)(A) (12 U.S.C.  
13      461(c)(1)(A)), by striking “subsection (b)(4)(C)”  
14      and inserting “subsection (b)”.

15   SEC. 705. INCREASED FEDERAL RESERVE BOARD FLEXI-  
16                      BILITY IN SETTING RESERVE REQUIRE-  
17                      MENTS.

18       Section 19(b)(2)(A) of the Federal Reserve Act (12  
19   U.S.C. 461(b)(2)(A)) is amended—

20              (1) in clause (i), by striking “the ratio of 3 per  
21      centum” and inserting “a ratio not greater than 3  
22      percent (and which may be zero)”; and

23              (2) in clause (ii), by striking “and not less than  
24      8 per centum,” and inserting “(and which may be  
25      zero),”.



## 1 SEC. 706. TRANSFER OF FEDERAL RESERVE SURPLUSES.

2 (a) IN GENERAL.—Section 7(b) of the Federal Re-  
3 serve Act (12 U.S.C. 289(b)) is amended by adding at  
4 the end the following new paragraph:

5 “(4) ADDITIONAL TRANSFERS TO COVER IN-  
6 TEREST PAYMENTS FOR FISCAL YEARS 2003  
7 THROUGH 2007.—

8 “(A) IN GENERAL.—In addition to the  
9 amounts required to be transferred from the  
10 surplus funds of the Federal reserve banks pur-  
11 suant to subsection (a)(3), the Federal reserve  
12 banks shall transfer from such surplus funds to  
13 the Board of Governors of the Federal Reserve  
14 System for transfer to the Secretary of the  
15 Treasury for deposit in the general fund of the  
16 Treasury, such sums as are necessary to equal  
17 the net cost of section 19(b)(12) in each of the  
18 fiscal years 2003 through 2007.

19 “(B) ALLOCATION BY FEDERAL RESERVE  
20 BOARD.—Of the total amount required to be  
21 paid by the Federal reserve banks under sub-  
22 paragraph (A) for fiscal years 2003 through  
23 2007, the Board of Governors of the Federal  
24 Reserve System shall determine the amount  
25 each such bank shall pay in such fiscal year.

1           “(C) REPLENISHMENT OF SURPLUS FUND  
2           PROHIBITED.—During fiscal years 2003  
3           through 2007, no Federal reserve bank may re-  
4           plenish such bank’s surplus fund by the amount  
5           of any transfer by such bank under subpara-  
6           graph (A).”.

7           (b) TECHNICAL AND CONFORMING AMENDMENT.—  
8           Section 7(a) of the Federal Reserve Act (12 U.S.C.  
9           289(a)) is amended by adding at the end the following  
10          new paragraph:

11           “(3) PAYMENT TO TREASURY.—During fiscal  
12          years 2003 through 2007, any amount in the sur-  
13          plus fund of any Federal reserve bank in excess of  
14          the amount equal to 3 percent of the paid-in capital  
15          and surplus of the member banks of such bank shall  
16          be transferred to the Secretary of the Treasury for  
17          deposit in the general fund of the Treasury.”.

18   SEC. 707. RULE OF CONSTRUCTION.

19          In the case of an escrow account maintained at a de-  
20          pository institution in connection with a real estate  
21          transaction—

22                (1) the absorption, by the depository institution,  
23          of expenses incidental to providing a normal banking  
24          service with respect to such escrow account;



1           (2) the forbearance, by the depository institu-  
2           tion, from charging a fee for providing any such  
3           banking function; and

4           (3) any benefit which may accrue to the holder  
5           or the beneficiary of such escrow account as a result  
6           of an action of the depository institution described  
7           in subparagraph (1) or (2) or similar in nature to  
8           such action,

9 shall not be treated as the payment or receipt of interest  
10 for purposes of this Act and any provision of Public Law  
11 93-100, the Federal Reserve Act, the Home Owners' Loan  
12 Act, or the Federal Deposit Insurance Act relating to the  
13 payment of interest on accounts or deposits at depository  
14 institutions, provided, however, that nothing herein shall  
15 be construed so as to require a depository institution that  
16 maintains an escrow account in connection with a real es-  
17 tate transaction to pay interest on such escrow account  
18 or to prohibit such institution from paying interest on  
19 such escrow account. Nor shall anything herein be con-  
20 strued to preempt the provisions of law of any State deal-  
21 ing with the payment of interest on escrow accounts main-  
22 tained in connection with real estate transactions.



